

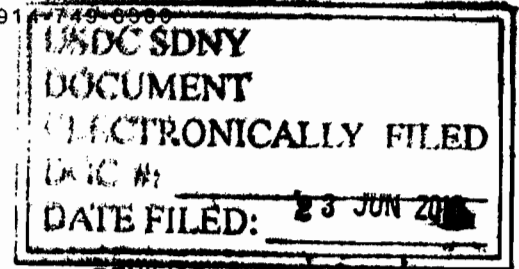
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June 21, 2010

VIA FACSIMILE

Honorable George B. Daniels
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

**DENIED**
JUDGE GEORGE B. DANIELS**23 JUN 2010**Re: CRP/Extell Parcell I, L.P. v. Andrew M. Cuomo, 10-CV-3801 (GBD)

Dear Judge Daniels:

I represent the plaintiff, CRP/Extell, in the above-captioned matter. I write with respect to the Attorney General's pending motion to dismiss, filed on May 14, 2010. That motion concerns the merits of CRP/Extell's federal constitutional claim and the scope of this Court's jurisdiction over all of CRP/Extell's claims. Although its opposition to the Attorney General's motion was not due at that time, the reply brief that CRP/Extell filed on May 18, 2010, in support of its previously filed motion for preliminary injunction addressed the motion to dismiss as well. The Court denied the motion for preliminary injunction following a hearing on May 18, 2010, and indicated that it would grant the Attorney General's motion after it had been fully briefed. At that time, in response to inquiry from counsel, the Court asked CRP/Extell to inform the Court as to when it would file a further brief in opposition to the Attorney General's motion.

After the Court denied the motion for preliminary injunction, CRP/Extell filed both a notice of appeal and an emergency motion in the Court of Appeals for a stay pending the resolution of the merits of the appeal. The Court of Appeals granted the emergency motion, scheduled it for further consideration of the motion by a three-judge panel, and permitted the parties to engage in fuller briefing on the motion. Based on discussions with the clerk, the parties understand that the panel is likely to meet to hear the motion in July 2010. Like the Attorney General's motion to dismiss, the emergency motion and appeal concern the merits of CRP/Extell's federal constitutional claims and the scope of this Court's jurisdiction over CRP/Extell's claims. At the end of last week CRP/Extell filed its reply brief in support of the emergency motion. (CRP/Extell has also moved for expedited resolution of the merits; it appears that the three-judge panel will consider that motion in conjunction with the emergency motion, in July.)

Accordingly, with the foregoing motion in the Court of Appeals now fully briefed, and considering the nature and scope of the papers the parties have filed on that motion, CRP/Extell respectfully proposes that in lieu of filing any further brief in this Court in opposition to the

Attorney General's pending motion, this Court instead adjourn CRP/Extell's time to file a further brief until such time as the Court of Appeals has resolved the merits of the appeal. The record is now clear that in considering the Attorney General's motion, the Court will be considering, analyzing, and applying the very same precedent that is before the Court of Appeals. CRP/Extell respectfully submits that the most sensible and efficient course is for the Court of Appeals to speak to the issues, rather than creating the prospect for inconsistency between this Court's and the Court of Appeals' treatment of the very same issues.

The Attorney General has not consented to such an adjournment, on what CRP/Extell understands to be the grounds that the Office does not want delay in the resolution of its motion. Yet CRP/Extell does not intend to pursue any discovery or motion practice pending the appeal. Accordingly, the dismissal of CRP/Extell's claims would not spare the defendants of any prejudice or burden that they would otherwise face. The Attorney General agrees, moreover, that the Court of Appeals is to consider the same law and facts at issue on the Office's motion.

CRP/Extell therefore respectfully submits, for all of the foregoing reasons, that the Court adjourn CRP/Extell's time to file any further brief in opposition to the Attorney General's motion to dismiss until such time as the Court of Appeals has resolved the merits of the foregoing appeal.

Sincerely,



Edward Normand

TN:

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